

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application for Authority to Transfer
Control of National Comtel Network, Inc.
(U-5341-C) to Jeff L. Foss, an Individual.

Application 02-05-006
(Filed May 1, 2002)

ADMINISTRATIVE LAW JUDGE'S RULING

This application was filed on May 1, 2002. The assigned Administrative Law Judge (ALJ), ALJ Jeffrey P. O'Donnell, prepared a draft decision. The draft decision was before the Commission as part of its agenda for its September 5, 2002 meeting. It has been held to a future meeting both on September 5 and on subsequent occasions, most recently on October 24, 2002.

This application seeks approval of a transaction that has already occurred, i.e., the transfer of stock, which effectuated the transfer of control, occurred on or about December 31, 2001, several months in advance of filing this application. The draft decision noted this fact and the requirement that Commission approval is required prior to a change of control of a utility.

A request to withdraw the application and accompanying letter, dated October 18, 2002, has just been received.

While a request by an applicant to withdraw an application is often a perfunctory request and readily granted, in this situation there remains a question as to whether the change of control which is the subject of the application, and which occurred without the required prior Commission authorization, remains in effect.

It is the purpose of this ruling to ask the applicant to advise the Commission why dismissal of this application is appropriate and to address the question of who presently has control of National Comtel Network Inc., including its certificate of public convenience and necessity and its physical and other assets, and who is presently responsible for service to its customers.

Since this matter was held once again to the Commission's November 7, 2002 meeting, a response to this inquiry should be filed on or before November 4, 2002, so that the Commission may determine whether this matter should be dismissed as requested or other actions taken.

Therefore, **IT IS RULED** that that on or before November 4, 2002, applicant National Comtel Network Inc. shall file a response to this ruling which identifies who presently has control over National Comtel Network Inc., including its certificate of public convenience and necessity and its physical and other assets, who is presently responsible for service to its customers, and why it is appropriate to dismiss this application.

Dated October 25, 2002, at San Francisco, California.

/s/PHILIP SCOTT WEISMEHL

Philip Scott Weismehl
Assistant Chief
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated October 25, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.